

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

WEDNESDAY, THE 4TH OCTOBER 2006 / 12TH ASWINA 1928

Bail Appl..No. 5736 of 2006

CRIME NO.108/2006 OF EDACHERY POLICE STATION

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PETITIONERS

ASHKAR SALEEM, AGED 26 YEARS,
S/O. MOIDEEN, THAZHEVERATH,
PONMERIPARAMBIL, VILLIAPPALLI, KOZHIKODE DIST.

BY ADV. SRI.P.NARAYANAN
SRI.M.C.RATNAKARAN

RESPONDENTS:

STATION HOUSE OFFICER,
EDACHERY POLICE STATION, REP. BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION
ON 04/10/2006, ALONG WITH BA NO. 5743 OF 2006 AND BA NO.
5744 OF 2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

J.M.JAMES, J.

B.A.Nos. 5736/06, 5743/06 & 5744/06

DATED THIS THE 4TH DAY OF OCTOBER, 2006

O R D E R

The petitioner is one and the same person in all the bail applications, as he is in judicial custody from 18.6.2006, having arrested in crime No.186/2006 of Edachery Police Station, on suspicion under Section 41(1) (d) of Cr.P.C., and now he is in judicial custody under Section 53(a) of the Kerala Police Act. Therefore, B.A.No.5744/2006 is preferred by him, under Section 439 Cr.P.C.

2. B.A.No.5743/2006 is preferred for bail in crime No.13/2006 of Vatakara Police Station, for the offence punishable under Section 394 IPC. He had robbed Rs.8,300/- and a mobile phone from the complainant.

3. B.A.No.5736/2006 is preferred by him for bail in crime No.108/2006 of Edachery Police Station, the offence being under Section 379 IPC, as he had committed theft of motorbike and Rs.13,000/-, from the

owner of the motorbike.

4. I heard the arguments advanced by both sides. The prosecutor submits that the petitioner is a habitual offender of the locality and his mode of operation is throwing chilly powder on the face of the victim and committing theft or snatching away the material objects or committing robbery from the persons. Therefore, prosecutor strongly opposes the granting of bail to the petitioner.

5. The learned counsel for the petitioner, on the other hand, submits that the petitioner is in judicial custody from 18.6.2006 and the cases had been falsely foisted against him. Therefore, counsel prays for granting of the bail, as the investigation is complete.

6. On going through the facts of the case and the C.D file, the learned single Judge of this Court had addressed the judicial Magistrate, Vatakara, for the time that he may take for the disposal of all these cases involving the petitioner, as per the order dated 27.9.2006. In the communication, dated 2.10.2006, the

learned Magistrate submitted that there are about 28 custody cases pending before that Court, apart from the targeted cases, and he may require at least six months time for the disposal of these three cases, which are numbered as C.C.No.422/2006, S.T.No.2450/2006 and C.C.No.496/2006 of that Court. The learned Magistrate stated that the non-availability of the APP and non-production of the accused and witnesses in time is another cause for the delay of the disposal of the cases.

7. The petitioner is in judicial custody, as stated above, from 18.6.2006. The investigation is complete and the matter is now pending before the Court below. Hence an expedite trial and disposal of the case could effectively be brought about. The bureaucratic or judicial delay cannot be considered as grounds in denying an expedite trial and disposal of the case, Particularly when the accused is in judicial custody.

8. In the above facts situation, I direct the Prosecution to produce the witnesses and ensure that APP is available during the posting of the cases involving

the petitioner/accused and the learned Magistrate shall dispose of the cases, as early as possible, in any case within three months from the date of the production of a copy of this order.

The applications are disposed of as above.

**J.M.JAMES
JUDGE**

mrCS